IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 217 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MAFATLAL AMBALAL PRAJAPATI

Versus

THE STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 217 of 2005

MR PRITESH L PARIKH for Petitioner No. 1

MS NANDINI JOSHI, A.P.P for Respondent No. 1

..... for Respondent No. 2-4

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 20/04/2005

ORAL JUDGEMENT

By filing of this petition, the petitioner has prayed that the proceedings of the offence registered as M. Case No. 22 of 2004 with Anand Town Police Station be handed over to the C.I.D. Crime. Learned advocate Shri Tirmizi has submitted that the investigation is to be carried out by respondent no. 3 but he is not investigating the said case and, therefore, the matter may be transferred to another investigating agency like C.I.D. Learned advocate Shri Tirmizi has submitted that in response to the complaint, being Criminal Case No. 53/2004, the learned JMFC, Anand, has passed an order on 7th May, 2004 under Section 156(3) of the Criminal Procedure Code asking the Police Inspector of Anand Town Police Station to investigate the case within thirty days. Learned advocate Shri Tirmizi has pointed out that till today no report has been submitted to the concerned Magistrate.

Learned A.P.P. Ms Nandini Joshi on the other hand has submitted that there is no proposal with the Government to transfer the case to another investigating agency like C.I.D. She has further submitted that the petitioner may give an application to the concerned Magistrate pointing out that the concerned Police Inspector has not yet submitted the report as per his order. Considering the rival submissions, in my view, appropriate direction is required to be given to the Police Inspector, Anand Town Police Station to comply with the order of the learned JMFC, Anand as he was required to send the report within thirty days and that such report should have been submitted to the Magistrate. The concerned Police Officer is accordingly directed to comply with the order of the Magistrate and submit his report, which he might have prepared on the basis of the investigation. The same may be sent to the Magistrate as soon as possible and preferably within thirty days from today. If respondent no. 3 still fails to carry out the order, the matter will be viewed very seriously.

Subject to what is stated above, learned advocate Shri Tirmizi seeks permission to withdraw the petition. The petition stands disposed of as withdrawn.

Writ of this order be sent to the concerned Police Inspector, Anand Town Police Station forthwith. Learned A.P.P to communicate this order to the concerned Police Inspector, Anand Town Police Station so that the report may be submitted to the concerned Magistrate.

Direct service is permitted.

(P.B. MAJMUDAR, J.)

siji